

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

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| UNITED STATES OF AMERICA, |) | |
| STATE OF GEORGIA, |) | |
| STATE OF ILLINOIS, |) | |
| STATE OF LOUISIANA, and |) | |
| STATE OF NEW JERSEY |) | |
| |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. |
| |) | |
| CITGO PETROLEUM CORPORATION, |) | |
| CITGO REFINING AND CHEMICALS |) | |
| COMPANY, L.P., PDV MIDWEST |) | |
| REFINING, L.L.C., and CITGO ASPHALT |) | |
| REFINING COMPANY, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"); the State of Georgia, by the authority of the Attorney General of Georgia, acting at the request of the Georgia Department of Natural Resources ("Georgia"); the State of Illinois, by the authority of the Attorney General of Illinois, acting at the request of the Illinois Environmental Protection Agency ("Illinois"); the State of Louisiana, by and through its Attorney General, on behalf of the people of the State of Louisiana, and the Louisiana Department of Environmental Quality, by and through its Secretary ("Louisiana"); and the State of New Jersey,

by the authority of the Attorney General of New Jersey, acting at the request of the New Jersey Department of Environmental Protection (“New Jersey”), allege:

NATURE OF ACTION

1. This is a civil action brought against CITGO Petroleum Corporation, CITGO Refining and Chemicals Company, L.P., PDV Midwest Refining, L.L.C., and CITGO Asphalt Refining Company (collectively “CITGO”), pursuant to Section 113(b) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7413(b), the Georgia Air Quality Act, OCGA §§ 12-9-1 et seq. (“Georgia Act”), the Illinois Environmental Protection Act, Title II: Air Pollution, 415 ILCS 5/8 et seq. (“Illinois Act”), the Louisiana Environmental Quality Act, LSA-R.S. 30:2001 et seq. (“Louisiana Act”), the New Jersey Air Pollution Control Act, N.J.S.A. §§ 26:2C-1 et seq. (“New Jersey Act”), and the Texas Clean Air Act, Texas Health & Safety Code Ann. §§ 382.001 et seq. (“Texas Act”) (collectively “State Acts”), for alleged environmental violations at CITGO’s petroleum refineries located in Lemont, Illinois (“Lemont Refinery”), Lake Charles, Louisiana (“Lake Charles Refinery”), and Corpus Christi, Texas (“Corpus Christi East Refinery” and “Corpus Christi West Refinery”), and CITGO’s asphalt refineries located in Savannah, Georgia (“Savannah Refinery”) and Paulsboro, New Jersey (“Paulsboro Refinery”)(collectively “Covered Refineries”).

2. Upon information and belief, the Covered Refineries have been and are in violation of EPA’s regulations implementing the following Clean Air Act statutory and regulatory requirements: Prevention of Significant Deterioration (“PSD”), Part C of Subchapter I of the Act, 42 U.S.C. § 7475, and the regulations promulgated thereunder at 40 C.F.R. § 52.21, and Non-Attainment New Source Review, Part D of Subchapter I of the Act, 42 U.S.C. §§ 7502-

7503, and the regulations promulgated thereunder at 40 C.F.R. § 51.165, Part 51, Appendix S, and § 52.24 (“PSD/NSR Regulations”); New Source Performance Standards (“NSPS”) promulgated at 40 C.F.R. Part 60, Subparts A, J and H; Leak Detection and Repair (“LDAR”) standards at 40 C.F.R. Part 60, Subparts VV and GGG, Part 61, Subparts J and V, and Part 63, Subparts F, H, and CC; and National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Benzene Waste Operations, 40 C.F.R. Part 61, Subpart FF.

3. Upon information and belief, the Covered Refineries have been and are in violation of the New Jersey Air Act and its implementing regulations at N.J.A.C. 7:27-1 et seq.; the Georgia Air Quality Act and its implementing regulations at Ga. Comp. R. & Regs. 391-3-1 et seq.; the Illinois Environmental Protection Act and its implementing regulations at 35 Ill. Adm. Code, Subtitle B, Part 201 et seq.; the Louisiana Environmental Quality Act, and its implementing regulations at the Environmental Regulatory Code Title 33:Part III; the Texas Air Act and its implementing regulations at 30 T.A.C. 1.01 et seq.; and the state implementation plans (“SIP”) of Georgia, Illinois, Louisiana, Texas and New Jersey, which incorporate and/or implement the above-listed federal regulations, the respective State Acts and their implementing regulations.

4. The United States, Georgia, Illinois, Louisiana and New Jersey seek an injunction ordering CITGO to comply with the above statutes, regulations and SIPs, and civil penalties for CITGO’s past and ongoing violations.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367; and Sections 113(b) and 304(a) of the CAA, 42 U.S.C. §§ 7413(b) and 7604(a).

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1395(a); and Sections 113(b) and 304(c) of the CAA, 42 U.S.C. §§ 7413(b) and 7604(c), because CITGO is doing business in the Southern District of Texas, and some of the violations alleged herein occurred at CITGO's Refinery that is located in the Southern District of Texas. CITGO has agreed to venue in this Court.

NOTICE TO STATES

7. The United States has provided notice of the commencement of this action to Georgia, Illinois, Louisiana, New Jersey and Texas in accordance with the requirements of Sections 113(a)(1) and (b) of the CAA, 42 U.S.C. § 7413(a)(1) and (b).

NOTICE TO ADMINISTRATOR AND CITGO

8. Georgia, Illinois, Louisiana and New Jersey have each provided notice of the commencement of this action to the Administrator of EPA and to CITGO in accordance with the requirements of Section 304(b) of the CAA, 42 U.S.C. § 7604(b).

DEFENDANTS

9. Defendant CITGO Petroleum Corporation is a Delaware corporation doing business in Savannah, Georgia, Lemont, Illinois, Lake Charles, Louisiana, Paulsboro, New Jersey, and Corpus Christi, Texas.

10. Defendant CITGO Refining and Chemicals Company, L.P., is a Delaware limited partnership, of which CITGO Petroleum Corporation is general partner, doing business in Corpus Christi, Texas.

11. Defendant PDV Midwest Refining LLC is a Delaware limited liability company doing business in Lemont, Illinois.

12. Defendant CITGO Asphalt Refining Company, is a New Jersey general partnership doing business in Paulsboro, New Jersey.

13. CITGO Petroleum Corporation, CITGO Refining and Chemicals Company, L.P., PDV Midwest Refining LLC, and CITGO Asphalt Refining Company, are each a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e) and applicable federal and state regulations promulgated pursuant to the CAA.

STATUTORY AND REGULATORY BACKGROUND

CLEAN AIR ACT REQUIREMENTS

14. The Clean Air Act established a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

15. Section 109 of the Act, 42 U.S.C. § 7409, requires the Administrator of EPA to promulgate regulations establishing primary and secondary national ambient air quality standards ("NAAQS" or "ambient air quality standards") for certain criteria air pollutants. The primary NAAQS are to be adequate to protect the public health, and the secondary NAAQS are to be adequate to protect the public welfare, from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air.

16. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a State Implementation Plan ("SIP") that provides for the attainment and maintenance of the NAAQS.

17. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the

NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. These designations have been approved by EPA and are located at 40 C.F.R. Part 81. An area that meets the NAAQS for a particular pollutant is classified as an "attainment" area; one that does not is classified as a "non-attainment" area.

Prevention of Significant Deterioration/New Source Review

18. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7479, sets forth requirements for the prevention of significant deterioration ("PSD") of air quality in those areas designated as attaining the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision-making process. These provisions are referred to herein as the "PSD program."

19. Section 165(a) of the Act, 42 U.S.C. § 7475(a), prohibits the construction and subsequent operation of a major emitting facility in an area designated as attainment unless a PSD permit has been issued. Section 169(1) of the Act, 42 U.S.C. § 7479(1), defines "major emitting facility" as a source with the potential to emit 250 tons per year (tpy) or more of any air pollutant.

20. As set forth at 40 C.F.R. § 52.21(k), the PSD program generally requires a person who wishes to construct or modify a major emitting facility in an attainment area to demonstrate, before construction commences, that construction of the facility will not cause or contribute to air pollution in violation of any ambient air quality standard or any specified incremental amount.

21. As set forth at 40 C.F.R. § 52.21(i), any major emitting source in an attainment area that intends to construct a major modification must first obtain a PSD permit. "Major modification" is defined at 40 C.F.R. § 52.21(b)(2)(i) as meaning any physical change in or change in the method of operation of a major stationary source that would result in a significant net emission increase of any criteria pollutant subject to regulation under the Act. "Significant" is defined at 40 C.F.R. § 52.21(b)(23)(i) in reference to a net emissions increase or the potential of a source to emit any of the following criteria pollutants, at a rate of emissions that would equal or exceed any of the following: for ozone, 40 tons per year of volatile organic compounds (VOCs); for carbon monoxide (CO), 100 tons per year; for nitrogen oxides (NO_x), 40 tons per year; for sulfur dioxide (SO₂), 100 tons per year, (hereinafter "criteria pollutants").

22. As set forth at 40 C.F.R. § 52.21(j), a new major stationary source or a major modification in an attainment area shall install and operate best available control technology ("BACT") for each pollutant subject to regulation under the Act that it would have the potential to emit in significant quantities.

23. Section 161 of the Act, 42 U.S.C. § 7471, requires state implementation plans to contain emission limitations and such other measures as may be necessary, as determined under the regulations promulgated pursuant to these provisions, to prevent significant deterioration of air quality in attainment areas.

24. Pursuant to 40 C.F.R. § 52.21(u), Georgia, Illinois, Louisiana, New Jersey and Texas have been delegated authority to issue a PSD permit.

25. Pursuant to the PSD regulations, any owner or operator who commences construction or modification of a major source without applying for and receiving approval for such

construction or modification is subject to an enforcement action. 40 C.F.R. § 52.21(s).

26. Part D of Title I of the Act, 42 U.S.C. §§ 7501-7515, sets forth provisions which direct States to include in their SIPs requirements to provide for reasonable progress towards attainment of the NAAQS in nonattainment areas. Section § 172(c)(5) of the Act, 42 U.S.C. § 7502(c)(5), provides that these SIPs shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with Section 173 of the Act, 42 U.S.C. § 7503, in order to facilitate “reasonable further progress” towards attainment of the NAAQS.

27. Section 173 of Part D of the Act, 42 U.S.C. § 7503, requires that in order to obtain such a permit the source must, among other things: (a) obtain federally enforceable emission offsets at least as great as the new source’s emissions; (b) comply with the lowest achievable emission rate as defined in Section 171(3) of the Act, 42 U.S.C. § 7501(3); and (c) analyze alternative sites, sizes, production processes, and environmental control techniques for the proposed source and demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

28. As set forth in 40 C.F.R. § 52.24, no major stationary source shall be constructed or modified in any non-attainment area as designated in 40 C.F.R. Part 81, Subpart C (“non-attainment area”) to which any SIP applies, if the emissions from such source will cause or contribute to concentrations of any pollutant for which a NAAQS is exceeded in such area, unless, as of the time of application for a permit for such construction, such plan meets the requirements of Part D, Title I, of the Act.

29. A state may comply with Sections 172 and 173 of the Act by having its own non-attainment new source review regulations approved as part of its SIP by EPA, which must be at least as stringent as those set forth at 40 C.F.R. § 51.165.

30. Pursuant to Section 113(b)(1) of the CAA, 42 U.S.C. § 7413(b)(1), the violation of *any requirement or provision of an applicable implementation plan is a violation of the CAA.*

31. Whenever any person has violated, or is in violation of, any requirement or prohibition of any SIP, the United States is authorized to commence a civil action for a permanent or temporary injunction, and/or for a civil penalty.

32. Pursuant to Section 304(a)(3) of the Act, 42 U.S.C. § Georgia, Illinois, Louisiana and New Jersey are authorized to commence a civil action against any person who is alleged to have violated Parts C or D of Title I of the CAA.

Flaring and New Source Performance Standards

33. Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), requires the Administrator of EPA to publish a list of categories of stationary sources that emit or may emit any air pollutant. The list must include any categories of sources which are determined to cause or significantly contribute to air pollution which may endanger public health or welfare.

34. Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), requires the Administrator of EPA to promulgate regulations establishing federal standards of performance for new sources of air pollutants within each of these categories. "New sources" are defined as stationary sources, the construction or modification of which is commenced after the publication of the regulations or proposed regulations prescribing a standard of performance applicable to such source. 42 U.S.C. § 7411(a)(2).

35. Pursuant to Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), EPA has identified petroleum refineries as one category of stationary sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare.

36. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA promulgated NSPS for various industrial categories, including petroleum refineries and sulfuric acid plants. NSPS requirements for petroleum refineries are codified at 40 C.F.R. Part 60, Subpart J, §§ 60.100-60.109. NSPS requirements for sulfuric acid plants are codified at 40 C.F.R. Part 60, Subpart H, §§ 60.80 - 60.85.

37. The provisions of 40 C.F.R. Part 60, Subpart J, apply to specified "affected facilities," including, inter alia, Claus sulfur recovery plants that have a capacity greater than 20 long tons per day and that commenced construction or modification after October 4, 1976, and all fluid catalytic cracking unit catalyst regenerators and fuel gas combustion devices that commenced construction or modification after June 11, 1973. 40 C.F.R. § 60.100(a),(b).

38. Section 60.102(a), 40 C.F.R., prohibits the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator of (1) particulate matter in excess of 1.0 kg/1000 kg (1.0 lb/1000 lb) of coke burn-off in the catalyst regenerator, and (2) gases exhibiting greater than 30 percent opacity, except for one six-minute average opacity reading in any one hour period; except as provided for in 40 C.F.R. § 60.102(b).

39. Section 60.103(a), 40 C.F.R., prohibits the discharge into the atmosphere from any catalytic cracking unit catalyst regenerator any gases that contain carbon monoxide ("CO") in excess of 500 ppm by volume (dry basis).

40. Pursuant to 40 C.F.R. § 60.104(b), the owner or operator of each affected fluid catalytic cracking unit catalyst regenerator shall comply with one of the conditions set forth in 40 C.F.R. § 60.104(b)(1), (2), or (3).

41. Section 60.104(a)(2), 40 C.F.R., prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems followed by incineration from discharging in excess of 250 ppm by volume (dry basis) of SO₂ at zero percent excess air. 40 C.F.R.

§ 60.104(a)(2) prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems not followed by incineration from discharging in excess of 300 ppm by volume of reduced sulfur compounds and in excess of 10 ppm by volume of hydrogen sulfide, each calculated as ppm SO₂ by volume (dry basis) at zero percent excess air.

42. Section 60.104(a)(1), 40 C.F.R., prohibits the burning in any fuel gas combustion device any fuel gas that contains hydrogen sulfide in excess of 230 milligrams per dry standard cubic meter, or, stated in terms of grains per dry standard cubic foot, 0.10. The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from the emission limit of 40 C.F.R. § 60.104(a)(1).

43. The provisions of 40 C.F.R. Part 60, Subpart H, §§ 60.80- 60.85, apply to specified “affected facilities,” specifically, sulfuric acid production units that commenced construction or modification after August 17, 1971.

44. Section 60.82, 40 C.F.R., prohibits the discharge into the atmosphere from a sulfuric acid production unit that is an “affected facility,” any gases which contain sulfur dioxide in excess of 2 kg. per metric ton of acid produced (4 lb per ton), the production being expressed as

100 percent H₂SO₄.

45. Section 60.83, 40 C.F.R., prohibits the discharge into the atmosphere from a sulfur acid production unit that is an "affected facility," any gases which: (1) contain acid mist, expressed as H₂SO₄, in excess of 0.075 kg per metric ton of acid produced (0.15 lb per ton), the production being expressed as 100 percent H₂SO₄; or (2) exhibit opacity of 10 percent or greater.

46. Pursuant to Section 111(b) of the CAA, 42 U.S.C. § 7411(b), EPA has promulgated general NSPS provisions, codified at 40 C.F.R. Part 60, Subpart A, §§ 60.1-60.19, that apply to owners or operators of any stationary source that contains an "affected facility" subject to regulation under 40 C.F.R. Part 60.

47. Section § 60.11(d), 40 C.F.R., requires that at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

48. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits the operation of any new source in violation of an NSPS applicable to such source. Thus, a violation of an NSPS is a violation of Section 111(e) of the CAA.

49. Whenever any person has violated, or is in violation of, any requirement or prohibition of any applicable New Source Performance Standard, Section 113(b) of the CAA, 42 U.S.C. § 7413(b), authorizes the United States to commence a civil action for a permanent or temporary injunction, and/or for a civil penalty.

50. Pursuant to Section 304(a)(1), Illinois, Georgia, Louisiana and New Jersey are

authorized to commence a civil action against any person who is alleged to have violated any emission standard or limitation under the CAA.

Leak Detection and Repair

51. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated New Source Performance Standards for Equipment Leaks of VOCs in Petroleum Refineries at 40 C.F.R. Part 60, Subpart GGG. Subpart GGG, in turn, incorporated many of the NSPS standards at 40 C.F.R. Part 60, Subpart VV. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated emission standards for hazardous air pollutants (“National Emission Standards for Hazardous Air Pollutants” or “NESHAPs”) at 40 C.F.R. Part 61, and NESHAPs for source categories at 40 C.F.R. Part 63. The relevant NESHAPs are found at 40 C.F.R. Part 61, Subpart J (for equipment leaks of benzene) and Subpart V (for equipment leaks); and 40 C.F.R. Part 63, Subpart F (for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry), Subpart H (for organic hazardous air pollutants for equipment leaks) and Subpart CC (for hazardous air pollutants from petroleum refineries).

52. The focus of the LDAR program is the refinery-wide inventory of all possible leaking equipment, the regular monitoring of that equipment to identify leaks, and the repair of leaks as soon as they are identified.

53. Whenever any person has violated, or is in violation of, any requirement or prohibition of any applicable New Source Performance Standard or any applicable National Emission Standard for a Hazardous Air Pollutant, Section 113(b) of the CAA, 42 U.S.C. § 7413(b), authorizes the United States to commence a civil action for a permanent or temporary injunction, and/or for a civil penalty.

Benzene Waste NESHAP

54. The CAA requires EPA to establish emission standards for each “hazardous air pollutant” (“HAP”) in accordance with Section 112 of the CAA, 42 U.S.C. § 7412.

55. In March 1990, EPA promulgated national emission standards applicable to benzene-containing waste streams. Benzene is a listed HAP and a known carcinogen. The benzene waste regulations are set forth at 40 C.F.R. Part 61, Subparts FF, (National Emission Standard for Benzene Waste Operations). Benzene is a naturally-occurring constituent of petroleum product and petroleum waste and is highly volatile. Benzene emissions can be detected anywhere in a refinery where the petroleum product or waste materials are exposed to the ambient air.

56. Pursuant to the benzene waste NESHAP, refineries are required to calculate the total annual benzene (“TAB”) content in their waste streams. If the TAB is over 10 megagrams, the refinery is required to elect a control option that will require the control of all waste streams, or control of certain select waste streams.

57. Pursuant to Section 113(b) of the CAA, 42 U.S.C. §7413(b), the United States may commence a civil action for injunctive relief and civil penalties for violations of the Act, not to exceed \$25,000 per day of violation for violations of the CAA. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69369, civil penalties of up to \$27,500 per day per violation may be assessed for violations occurring on or after January 30, 1997 and on or before March 15, 2004. Pursuant to Pub. L. 104-134 and 69 Fed. Reg. 7121, civil penalties of up to \$ 32,500 per day per violation may be assessed for violations occurring after March 15, 2004.

Georgia Air Quality Act Requirements and Enforcement Provisions

58. The Georgia Air Quality Act provides that no person shall, and it shall be a violation of the Act to, construct, install, modify, own, or operate any facility or stationary source or any equipment, device, article, or process capable of causing or contributing to the emission of air contaminants from such source or facility or designed to prevent air pollution from such facility or source unless permitted by and in compliance with a permit issued by the Director of the Environmental Protection Division. O.C.G.A. § 12-9-7. The Director is authorized to seek enforcement, including injunctive relief and civil penalties, for violations of the Act and the Air Quality Control Rules, Ga. Comp. R. & Regs. 391-3-1, et seq., promulgated thereunder. O.C.G.A. §§ 12-9-12, -13, -15, and -23.

Illinois Environmental Protection Act Requirements and Enforcement Provisions

59. The Illinois Environmental Protection Act ("Illinois Act"), 415 ILCS 5/39.5(2002) and implementing regulations require that any person who constructs or modifies a major stationary source must first obtain a permit. 415 ILCS 5/ 39.5 (2002) and 35 Ill. Adm. Code Part 203. The Illinois Act, 415 ILCS 5/9.1(a-f), (2002) requires any person who constructs, reconstructs, installs or modifies new equipment or control apparatus to incorporate advances in the art of air pollution control as provided by federal and state law and to install the applicable air pollution control technology. The Illinois Act and implementing regulations require persons who construct, reconstruct or modify equipment or control apparatus in non-attainment areas to secure emission offsets. 415 ILCS 5/9.8 - 9.9 (2002) and 35 Ill. Adm. Code Part 205. Pursuant to Section 4 of the Illinois Act, 415 ILCS 5/4 (2002), and implementing regulations at 35 Ill. Adm. Code Part. 201 *et seq.*, the Illinois Environmental Protection Agency is authorized to enforce the

Illinois Act.

Louisiana Environmental Quality Act Requirements and Enforcement Provisions

60. The Louisiana Environmental Quality Act and its implementing regulations require that any person who constructs or modifies a major stationary source must first obtain a permit. LAC 33:Part III.509.I.1. Pursuant to the Louisiana Environmental Quality Act, LSA-R.S. 30:2001, et seq., in particular R.S. 30:2025(G), Louisiana, through the Department of Environmental Quality, is authorized to enforce the Louisiana Environmental Quality Act and institute an action for injunctive relief and civil penalties.

New Jersey Air Act Requirements and Enforcement Provisions

61. The New Jersey Air Act implementing regulations require that any person who constructs or modifies a significant source must first obtain a permit. N.J.A.C. 7:27-8.3. The New Jersey Air Act, N.J.S.A. 26:2C-1 et seq., requires any person who constructs, reconstructs, installs or modifies new equipment or control apparatus to incorporate advances in the art of air pollution control as provided by federal and state law and to install the applicable air pollution control technology. N.J.S.A. 26:2C-9.2c. The New Jersey Air Act requires persons who construct, reconstruct or modify equipment or control apparatus in non-attainment areas to secure emission offsets. N.J.A.C. 7:27-18.1 et seq. Pursuant to N.J.S.A. 26:2C-19, and implementing regulations at N.J.A.C. 7:27-8.26, 7:27-18.12, and 7:27A-3.1 et seq., New Jersey is authorized to enforce the New Jersey Air Act and institute an action for injunctive relief and civil penalties.

FIRST CLAIM FOR RELIEF

(CAA PSD/NSR Violations at FCCUs, Heaters and Boilers and Sulfuric Acid Plant)

62. Paragraphs 1 through 61 are realleged and incorporated by reference as if fully set

forth herein.

63. CITGO owns and operates one or more fluidized catalytic cracking unit ("FCCU") regenerators at each of its Lemont, Lake Charles, Corpus Christi East and Corpus Christi West Refineries.

64. CITGO owns and operates a sulfuric acid plant at its Lake Charles Refinery.

65. CITGO owns and operates heaters and boilers at each of the Covered Refineries.

66. On information and belief, CITGO has modified the FCCU regenerators at its Lemont, Lake Charles, Corpus Christi East and Corpus Christi West Refineries, has modified the sulfuric acid plant at its Lake Charles Refinery, and has modified heaters and boilers at the Covered Refineries.

67. On information and belief, each modification was a "major modification" within the meaning of 40 C.F.R. § 52.21(b)(2) to existing major stationary sources that resulted in a significant net emissions increase of: (i) NO_x, SO₂, PM, PM₁₀, and CO from the FCCU regenerators; (ii) NO_x and SO₂ from the heaters and boilers; and (iii) SO₂ from the sulfuric acid plant.

68. Since the initial construction or major modification of the FCCU regenerators, sulfuric acid plant and heaters and boilers, CITGO has been in violation of Section 165(a) of the CAA, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, and the corresponding state implementation plans, by failing to undergo PSD/NSR review for the fluidized catalytic cracking units, sulfuric acid plant and heaters and boilers, by failing to obtain permits, and by failing to install the best available control technology for the control of those pollutants for which a significant net emissions increase occurred.

69. Unless restrained by an Order of the Court, these violations of the Clean Air Act and the implementing regulations will continue.

70. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

SECOND CLAIM FOR RELIEF

(CAA/NSPS Violations at FCCU Catalyst Regenerators)

71. Paragraphs 1 through 70 are realleged and incorporated by reference as if fully set forth herein.

72. CITGO is the "owner or operator," within the meaning of Section 111(a)(5) of the CAA, 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 60.2, of one or more fluidized catalytic cracking unit regenerators at each of the Lemont, Lake Charles, Corpus Christi East and Corpus Christi West Refineries.

73. Each FCCU regenerator is a "fluid catalytic cracking unit catalyst regenerator" as defined in 40 C.F.R. § 60.101(n), and a "stationary source" within the meaning of Sections 111(a)(3) and 302(z) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7602(z).

74. Each FCCU regenerator is an "affected facility" within the meaning of 40 C.F.R. §§ 60.2 and 60.100(a), and a "new source" within the meaning of Section 111(a)(2) of the CAA,

42 U.S.C. § 7411(a)(2).

75. Each FCCU regenerator is subject to the General Provisions of the NSPS, 40 C.F.R. Part 60, Subpart A, and to the Standards of Performance for Petroleum Refineries, 40 C.F.R. Part 60, Subpart J.

76. Each FCCU regenerator is subject to the emission limitations set forth in 40 C.F.R. §§ 60.102(a), 60.103(a), and 60.104(b).

77. Section 60.102(a), 40 C.F.R., prohibits the discharge into the atmosphere from any FCCU regenerator of (1) particulate matter in excess of 1.0 kg/1000 kg (1.0 lb/1000 lb) of coke burn-off in the catalyst regenerator, and (2) gases exhibiting greater than 30 percent opacity, except for one six-minute average opacity reading in any one hour period; except as provided for in 40 C.F.R. § 60.102(b).

78. Section 60.103(a), 40 C.F.R., prohibits the discharge into the atmosphere from any FCCU regenerator any gases that contain carbon monoxide ("CO") in excess of 500 ppm by volume (dry basis).

79. Pursuant to 40 C.F.R. § 60.104(b), the owner or operator of each affected FCCU regenerator shall comply with one of the standards for sulfur oxides set forth in 40 C.F.R. § 60.104(1), (2) or (3).

80. On information and belief, CITGO has violated 40 C.F.R. §§ 60.102(a), 60.103(a) and/or 60.104(b), and thus Section 111 of the CAA, at its FCCU regenerators by not complying with the emissions standards set forth in those sections.

81. Unless restrained by an order of the Court, these violations of the CAA and the implementing regulations will continue.

82. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

THIRD CLAIM FOR RELIEF - CAA

(CAA/NSPS Violations at Sulfur Recovery Plants)

83. The allegations in Paragraphs 1 through 82 are hereby realleged and incorporated by reference as if fully set forth herein.

84. CITGO is the "owner or operator," within the meaning of Section 111(a)(5) of the CAA, 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 60.2, of one or more sulfur recovery plants ("SRP"), located at each of the Lemont, Lake Charles, Corpus Christi East and Corpus Christi West Refineries.

85. Each of the SRPs is a "Claus sulfur recovery plant" as defined in 40 C.F.R. § 60.101(i), and a "stationary source" within the meaning of Sections 111(a)(3) and 302(z) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7602(z).

86. Each of the SRPs has a capacity of more than 20 long tons of sulfur per day.

87. Each of the SRPs is an "affected facility" within the meaning of 40 C.F.R. §§ 60.2 and 60.100(a), and a "new source" within the meaning of Section 111(a)(2) of the CAA, 42 U.S.C. § 7411(a)(2).

88. Each of the SRPs is subject to the General Provisions of the NSPS, 40 C.F.R. Part 60, Subpart A, and to the Standards of Performance for Petroleum Refineries, 40 C.F.R. Part 60, Subpart J.

89. Each of the SRPs is subject to the emission limitation set forth in 40 C.F.R. § 60.104(a)(2)(i).

90. Based on information and belief, CITGO has emitted into the atmosphere gases containing in excess of (1) 250 ppm by volume (dry basis) of sulfur dioxide at zero percent excess air, or (2) 300 ppm by volume of reduced sulfur compounds, from each of the SRPs, in violation of 40 C.F.R. § 60.104(a)(2) and Section 111(e) of the CAA, 42 U.S.C. § 7411(e).

91. Unless restrained by an order of the Court, these violations of the CAA and the implementing regulations will continue.

92. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

FOURTH CLAIM FOR RELIEF

(CAA/NSPS Violations at Flaring Devices and Heaters and Boilers)

93. The allegations in Paragraphs 1 through 92 are hereby realleged and incorporated by reference as if fully set forth herein.

94. CITGO is the "owner or operator," within the meaning of Section 111(a)(5) of the CAA, 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 60.2, of flaring devices located at the Lemont, Lake Charles, Corpus Christi East, Corpus Christi West and Paulsboro Refineries, and heaters and boilers located at each of the Covered Refineries.

95. Certain individual flaring devices, heaters and boilers are each a "fuel gas combustion device" as defined in 40 C.F.R. § 60.101(g), and a "stationary source" within the meaning of Sections 111(a)(3) and 302(z) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7602(z).

96. Each such flaring device, heater and boiler is an "affected facility" within the meaning of 40 C.F.R. §§ 60.2 and 60.100(a), and a "new source" within the meaning of Section 111(a)(2) of the CAA, 42 U.S.C. § 7411(a)(2).

97. Each such flaring device, heater and boiler is subject to the emission limitation set forth in 40 C.F.R. § 60.104(a)(1).

98. CITGO has burned in such flaring devices and heaters and boilers at Covered Refineries fuel gas that contained hydrogen sulfide in excess of 230 milligrams per dry standard cubic meter, or, stated in terms of grains per dry standard cubic foot, 0.10, in violation of 40 C.F.R. § 60.104(a)(1) and Section 111(e) of the CAA, 42 U.S.C. § 7411(e).

99. Unless restrained by an order of the Court, these violations of the CAA and the implementing regulations will continue.

100. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section

113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

FIFTH CLAIM FOR RELIEF

(CAA/NSPS Violations at Sulfuric Acid Plant)

101. The allegations in Paragraphs 1 through 100 are hereby realleged and incorporated by reference as if fully set forth herein.

102. CITGO is the “owner or operator,” within the meaning of Section 111(a)(5) of the CAA, 42 U.S.C. § 7411(a)(5), and 40 C.F.R. § 60.2, of a sulfuric acid plant at its Lake Charles Refinery.

103. The sulfuric acid plant is a “sulfuric acid production unit,” as defined in 40 C.F.R. § 60.81(a), and a “stationary source” within the meaning of Sections 111(a)(3) and 302(z) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7602(z).

104. The sulfuric acid plant is an “affected facility” within the meaning of 40 C.F.R. §§ 60.2 and 60.80, and a “new source” within the meaning of Section 111(a)(2) of the CAA, 42 U.S.C. § 7411(a)(2).

105. The sulfuric acid plant is subject to the General Provisions of the NSPS, 40 C.F.R. Part 60, Subpart A, and to the Standards of Performance for Sulfuric Acid Plants, 40 C.F.R. Part 60, Subpart H, including the emission standards set forth in 40 C.F.R. §§ 60.82 and 60.83.

106. On information and belief, CITGO has emitted into the atmosphere gases which contain sulfur dioxide in excess of 2 kg. per metric ton of acid produced, in violation of 40 C.F.R. § 60.82 and Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e).

107. Unless restrained by an order of the Court, these violations of the CAA and the implementing regulations will continue.

108. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

SIXTH CLAIM FOR RELIEF

(CAA/NSPS: 40 C.F.R. § 60.11(d))

**(Failing to Operate and Maintain the SRPS, the FCCU Regenerators, the Heaters and Boilers, the Flaring Devices, the Sulfur Recovery Plants, and the Sulfuric Acid Plant in a Manner Consistent with Good Air Pollution Control Practice)
(All Covered Refineries)**

109. The allegations in Paragraphs 1 through 108 are hereby realleged and incorporated by reference as if fully set forth herein.

110. Upon information and belief, since at least 1996, CITGO has, under circumstances that did not represent good air pollution control practices, in violation of 40 C.F.R. § 60.11(d), emitted unpermitted quantities of SO₂, CO, PM and PM₁₀, from its FCCU regenerators, and unpermitted quantities of SO₂ from its SRPs, certain heaters and boilers, flaring devices and its sulfuric acid plant.

111. Unless restrained by an order of the Court, these violations of the Act and the

implementing regulations will continue.

112. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

SEVENTH CLAIM FOR RELIEF

(Leak Detection and Repair Requirements)

113. The allegations in Paragraphs 1 through 112 are realleged and incorporated by reference as if fully set forth herein.

114. CITGO is required under 40 C.F.R. Part 60, Subpart GGG, to comply with standards set forth at 40 C.F.R. § 60.592, which references standards set forth at 40 C.F.R. §§ 60.482-1 to 60.482-10, and alternative standards set forth at 40 C.F.R. §§ 60.483-1 to 60.483-2, for certain of its refinery equipment in light liquid and gas and/or vapor service, constructed or modified after January 4, 1983.

115. Pursuant to 40 C.F.R. § 60.483-2(b)(1), an owner or operator of valves in light liquid and gas and/or vapor service must initially comply with the leak detection monitoring and repair requirements set forth in 40 C.F.R. § 60.482-7, including the use of Standard Method 21 to monitor for such leaks.

116. Pursuant to 40 C.F.R. Part 61 Subpart J, CITGO is required to comply with the requirements set forth in 40 C.F.R. Part 61, Subpart V, for certain specified equipment in

light liquid and gas and/or vapor benzene service.

117. Upon information and belief, since at least 1999, CITGO has failed to accurately monitor the subject VOC valves and other components at its Refinery as required by Standard Method 21, to report the VOC valves and other components that were leaking, and to repair all leaking VOC valves and other components in a timely manner.

118. CITGO's acts or omissions referred to in the preceding Paragraph constitute violations of the 40 C.F.R. Part 60, Subparts GGG and VV; 40 C.F.R. Part 61, Subparts J and V; and 40 C.F.R. Part 63, Subparts F, H, and CC.

119. Unless restrained by an order of the Court, these violations of the Act and the implementing regulations will continue.

120. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

EIGHTH CLAIM FOR RELIEF

(Benzene Waste NESHASP)

121. The allegations in Paragraphs 1 through 120 are hereby realleged and incorporated by reference as if fully set forth herein.

122. At all times relevant to this Complaint, CITGO's Lemont, Lake Charles and Corpus Christi East Refineries have each had a total annual benzene quantity from refinery waste

of over 10 mg./yr., and have been subject to all of the requirements of the Benzene Waste NESHASP regulations set forth at 40 C.F.R. §§ 61.342 et seq.

123. CITGO failed to comply with the requirements of the compliance option set forth at 40 C.F.R. § 61.342(e)(2)(i) and the Act, by exceeding the benzene quantity limit of 6.0 Mg./yr. at each of its Lemont, Lake Charles and Corpus Christi East Refineries.

124. The violations of CITGO, as set forth above, subject it to injunctive relief, and civil penalties of up to: (1) \$25,000 per day for each violation prior to January 31, 1997, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); (2) \$ 27,500 per day for each violation occurring on and after January 31, 1997 and on and before March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134, and 61 Fed. Reg. 69369 (December 31, 1996); and (3) \$ 32,500 per day for each violation occurring after March 15, 2004, pursuant to Section 113(b) of the CAA, Pub. L. 104-134 and 69 Fed. Reg. 7121 (February 13, 2004).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States, Georgia, Illinois, Louisiana and New Jersey, respectfully request that this Court:

1. Order CITGO to immediately comply with the statutory and regulatory requirements cited in this Complaint under the Clean Air Act and the State Acts;
2. Order CITGO to take appropriate measures to mitigate the effects of its violations;
3. Assess civil penalties against CITGO for up to the amounts provided in the applicable statutes; and
4. Grant the United States, Georgia, Illinois, Louisiana and New Jersey such other relief as this Court deems just and proper.

Respectfully submitted,

THE UNITED STATES OF AMERICA

Date: 10.4.04

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